

Message Text

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ACTION AF-10

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C O N F I D E N T I A L LAGOS 4296

E.O. 11652: GDS
TAGS: PGOV, PDEV, NI
SUBJECT: SHARIA: THE CONSTITUENT ASSEMBLY DECIDES

REF: (A) LAGOS 4190, (B) LAGOS 3451

BEGIN SUMMARY: THE CONSTITUENT ASSEMBLY HAS FORMALLY REJECTED
THE IDEA OF A FEDERAL SHARIA COURT OF APPEAL AND HAS
ADOPTED A COMPROMISE SOLUTION ALLOWING SHARIA CASES TO
BE HEARD ON APPEAL BY AN AD HOC PANEL OF THE FEDERAL COURT
OF APPEAL. END SUMMARY.

1. ON APRIL 6 AFTER A WEEK OF DEBATE AND INTENSE POLITICAL
MANEUVERING, THE CONSTITUENT ASSEMBLY REJECTED THE NORTHERN
SUPPORTED IDEA OF A FEDERAL SHARIA COURT OF APPEAL TO HEAR
CASES ON APPEAL FROM THE MUSLIM SHARIA STATE COURTS.

2. THE CONSTITUENT ASSEMBLY BEGAN FORMAL CONSIDERATION OF
THE SHARIA COURT ISSUE ON APRIL 3 WHEN IT RETURNED FROM THE
EASTER RECESS. THE CA CHOSE TO GRAPPLE WITH THE PROBLEM
BY APPOINTING A 16-MAN SELECT COMMITTEE TO CONSIDER THE
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ISSUE AND TO PROPOSE A SOLUTION. (FYI: THIS MODUS
OPERANDI WORKED SUCCESSFULLY IN THE PAST FOR THE CA IN
HANDLING THE SENSITIVE ISSUES OF THE EXECUTIVE PRESIDENCY
AND CREATION OF NEW STATES. END FYI)

3. THE SELECT COMMITTEE, MADE UP OF AN EVEN BALANCE BETWEEN
MUSLIM AND NON-MUSLIM MCA'S WAS HEADED BY CHIEF SIMEON

ADEBO AND INCLUDED POLITICAL HEAVYWEIGHTS SUCH AS PROFESSOR IYA ABUBAKAR, CHIEF JEROM UDOJI, ALHAJI UMARU DIKKO, CHIEF TOYE COKER, ALHAJI NUHU BAMALI, AND PAUL ONONGO. THE COMMITTEE MET ON TUESDAY AND WEDNESDAY IN AN EFFORT TO FIND A SOLUTION TO THE PROBLEM WHILE MEMBERS OF THE CA MILLED AROUND THE LOBBIES AND COFFEE ROOMS DISCUSSING THE ISSUE.

4. ACCORDING TO PROMINENT CA EASTERN MEMBER HILARY NJOKU (IMO), THERE WERE ONLY THREE THEORETICAL SOLUTIONS TO THE SHARIA PROBLEMS:

- A SHARIA COURT OF APPEAL AT THE FEDERAL LEVEL
- PROVISION FOR CONSIDERATION OF SHARIA CASES BY AN AD HOC GROUP OF FEDERAL COURT OF APPEAL JUDGES WHO ARE LEARNED IN SHARIA LAW
- NO MENTION OF SHARIA AT THE FEDERAL APPEAL LEVEL.

SOURCES INSIDE THE ASSEMBLY INDICATE THAT THE FIRST OPTION WAS NEVER SERIOUSLY CONSIDERED BY THE ADEBO GROUP. NJOKO TOLD US THAT 'A SOLID MAJORITY OF MCA'S' SIMPLY REJECTED THE IDEA OF A SHARIA COURT OF APPEAL. ON THE OTHER HAND, MOST MCA'S RECOGNIZED THE POLITICAL UNACCEPTABILITY OF THE THIRD OPTION. MIDDLE BELT MCA ALHAJI ABDULLAHI ADAMU TOLD US THAT A SOLUTION HAD TO BE FOUND THAT RECOGNIZED THE FACT THAT NIGERIA WAS A DIVERSE FEDERATION. TOTAL REJECTION OF SHARIA WAS NOT SUCH A SOLUTION. WORKING ON THAT BASIS THE COMMITTEE OPTED FOR THE COMPROMISE FORMULA, CONFIDENTIAL

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AN AD HOC THREE-MAN SUB-GROUP OF THE FEDERAL COURT OF APPEAL TO HEAR SHARIA CASES ON APPEAL.

5. ON WEDNESDAY MORNING, THE COMPROMISE WAS FLOATED IN THE CORRIDORS AND WAS APPARENTLY FOUND UNACCEPTABLE BY MANY SHARIA SUPPORTERS. IN THE AFTERNOON, ABOUT 50 PRO-SHARIA MCA'S HELD A CLOSED DOOR CAUCUS IN THE NEARLY SENATE BUILDING TO DISCUSS STRATEGY. ACCORDING TO CLOSE OBSERVERS, DISCUSSION CENTERED MAINLY ON HOW NORTHERN MCA'S COULD SELL THIS LESS THAN OPTIMAL SOLUTION TO THEIR HOME CONSTITUENTS TO WHOM THEY HAD PROMISED A SHARIA COURT OF APPEAL. THEY RECOGNIZED THAT THEY WERE NOW FACED WITH ACCEPTING HALF A LOAF OR NONE AT ALL. OTHER SOURCES TOLD US HOWEVER THAT TWO MUSLIM JUDGES CAME DOWN FROM THE NORTH AND LECTURED THE NORTHERN CAUCUS ON EXAGGERATING THE IMPORTANCE OF THE ISSUE.

6. ON THURSDAY, THE DECISION WAS MADE. SHARIA OPPONENTS FORCED THE ISSUE AND BROUGHT THE ADEBO COMPROMISE TO THE FLOOR OF THE FULL CA. IN SCENES OF SOME CONFUSION SHORTLY BEFORE NOON THE CA ADOPTED BY ACCLAMATION THE ADEBO FORMULA. IN THE MIDST OF THE VOTE, MANY NORTHERN MCA'S

STOOD UP AND TROOPED OUT OF THE CHAMBER IN A GRIM-FACED PROCESSION TO THE SENATE BUILDING. SOME WERE OVERHEARD TO MUTTER THAT THEY WOULD NOT BE RETURNING.

7. TRIUMPHANT ANTI-SHARIA MCA'S GATHERED IN THE CA COFFEE ROOM AFTER THE MEETING AND CONGRATULATED A TIRED LOOKING CHIEF ADEBO. IN CONVERSATION WITH AN EMBASSY OFFICER, MCA'S REV. NATHANIEL OBIAGO (ANAMBRA), OZOLMENA NYALI (ANAMBRA), AND CHIEF AUGUSTINE OKAFOR EZENWA (APPOINTED MEMBER) STRESSED THAT IN THEIR VIEW THE ISSUE WAS NOW SETTLED AND THE CA SHOULD GO ON WITH ITS REMAINING BUSINESS.

8. COMMENT: THE CA HAS NOW FORMALLY DECIDED THE SHARIA ISSUE. THE NEXT QUESTION IS HOW THE COUNTRY, PARTICULARLY CONFIDENTIAL

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THE NORTH, WILL REACT TO THAT DECISION. IF THE ISSUE HAS INDEED BEEN SETTLED, THE CA HAS TAKEN A LONG STEP FORWARD IN ITS JOURNEY TO WRITE A CONSTITUTION FOR NIGERIA. SHARIA OUT OF THE WAY, ACCORDING TO SEVERAL MCA'S, THE ONLY THORNY PROBLEM LEFT TO TACKLE IS REVENUE ALLOCATION. END COMMENT.
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